

U.S. Department of Justice



United States Attorney
Southern District of New York

MEMO ENDORSED

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

April 23, 2009

By Facsimile

The Honorable Kenneth M. Karas
United States District Court
300 Quarropas Street
White Plains, New York 10601
Fax: (914) 390-4145

Re: United States v. Sean Wilson
05 Cr. 964 (CLB)

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Dear Judge Karas:

At the request of the Court, the Government respectfully submits this letter in response to the defendant's *pro se* submission, dated March 1, 2009, requesting early termination of supervised release. The defendant was convicted, following a guilty plea, of possession of child pornography, in violation of Title 18, United States Code, Section 2252(a)(4)(B). On January 5, 2006, the Honorable Charles L. Brieant sentenced him to 18 months' imprisonment followed by 3 years' supervised release. By his account, he has approximately 14 months of supervised release remaining.

The Government opposes the defendant's request for early termination of supervised release. Pursuant to Title 18, United States Code, Section 3583(e), a district court "may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7)" terminate a term of supervised release any time after one year "if it is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice." See also *United States v. Lussier*, 104 F.3d 32, 36 (2d Cir. 1997). Early termination, however, is not warranted as a matter of course; on the contrary, it is only "occasionally" justified due to "changed circumstances" of a defendant, such as "exceptionally good behavior." *Id.* Although the defendant in this case has apparently been compliant with the terms of supervised release, considering the factors specified in Section 3583(e) – many of the same factors that Judge Brieant considered in imposing the sentence originally – early termination is not justified in this case. In particular, the seriousness of the offense and the related needs to afford adequate deterrence and protect the public from further crimes, see 18 U.S.C. § 3553(a)(1), (a)(2)(B), (a)(2)(C), more than justify requiring the defendant to complete the remaining few months of his term. Moreover, the defendant has not shown that the terms of his supervised release are especially onerous or problematic in any way.

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For the foregoing reasons, the Government respectfully opposes the defendant's request for early termination. In addition, the Government has exchanged voice mail messages with U.S. Probation Officer, Peter Warner, who has been supervising the defendant, and understands that he does not believe supervised release should be terminated early in this case.

Respectfully submitted,

LEV L. DASSIN
Acting United States Attorney

By:


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U.S. Probation Officer Peter Warner (by facsimile: 845-344-2722)

While the Court notes that Mr. Wilson has complied fully with the terms and conditions of his supervised release, and assumes he would and will continue to do so, the Court does not find that early termination is appropriate here. The change in circumstances is not so extraordinary and it is far from clear that supervised release is proving to be too onerous see 18 USC § 3583(e). Therefore, the Court finds it would not be in the interests of justice to terminate Mr. Wilson's supervised release.

Sgd: [Signature]
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